

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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APPEAL BRIEF

Introductory Comments

Pursuant to the provisions of 37 C.F.R. § 41.30 *et seq.*, the Applicant hereby appeals to the Board of Patent Appeals and Interferences (hereinafter “the Board”) from the claim rejections issued in the final Office action dated November 2, 2006 (hereinafter “the final Office action”). A notice of appeal was filed on April 27, 2007, in conjunction with a pre-appeal brief request for review in response to an advisory action mailed March 27, 2007 (hereinafter “the advisory action”).

Real Party In Interest

The entire interest in the present application has been assigned to Sprint Communications Company, L.P., as recorded at Reel 012026, Frame 0557.

Related Appeals and Interferences

There are no prior or pending related appeals or interferences.

Status of Claims

Claims 1, 2 and 4-11 are pending in the application.

Claim 3 is canceled.

Claims 1, 2 and 4-11 have been finally rejected.

Claims 1, 2 and 4-11 are being appealed.

Status of Amendments

No amendments have been filed subsequent to the final Office action.

Summary of Claimed Subject Matter

Independent claim 1 provides a method for providing communication services. The communication services being provided may include, for example, broadband voice, video and data communications. (Page 8, lines 22 and 23.) One embodiment of such a method is shown in Fig. 2 of the present application, which may be employed using the system depicted in Fig. 1. (See generally page 6, line 7, to page 10, line 7.) A more detailed embodiment of the system of Fig. 1 is illustrated in Fig. 3, along with a related method shown in Fig. 4. (See generally page 10, line 9, to page 13, line 20.)

In one method, a wireless transceiver device 104 is provided at a retail business 100 to a customer of the retail business 100. (Operation 203 of Fig. 2; and page 9, lines 18-20. See also operation 401 of Fig. 4; and page 13, lines 6-8.) The retail business 100 may be, for example, a video store, convenience store, grocery store, or any other retail outlet that desires to provide communication services to its customers. (Page 8, lines 6-8.) Also, the wireless transceiver device 104 can be any wireless transceiver device, such as a portable video display system, a personal digital assistant, a notebook computer, or telephone. (Page 7, lines 12-21.) The wireless transceiver device 104 is configured to receive at least one of a plurality of different communication services and provide the at least one of the plurality of different communication services to the customer of the retail

business 100. (Page 8, lines 8-14.) The plurality of different communication services are received in at least one location of the retail business from a network system 101. (Operation 204; and page 10, lines 2-4.)

In response to providing the wireless transceiver device 104 to the customer, a request from the wireless transceiver device 104 is received in the retail business location 100 to provide the at least one of the different communication services. (Operations 404 and 405 of Fig. 4; and page 13, lines 13-15, wherein a customer selects a movie via a menu on a wireless transceiver device 303, and a message is sent from the device 303 as a result.) The request for the at least one of the different communication services is processed at the retail business location 100. (Operation 406; and page 13, lines 15 and 16.) In response to processing the request, the at least one of the different communication services is provided from the retail business location 100 to the wireless transceiver device 104 over a wireless network 102. (Operations 205 and 206; and page 10, lines 4-7. See also operation 408; and page 13, lines 18-20.)

Various embodiments of the invention as claimed allow a customer to purchase or rent a wireless transceiver device from a retail business in order to access any of a number of the communication services wirelessly on demand. (Page 4, line 19, to page 5, line 3.) Further, potentially providing the devices by way of a number of locations of the retail business enhances the customer's access to the devices. (Page 5, lines 6-9.)

Grounds of Rejection to Be Reviewed on Appeal

1. Whether claims 1, 2 and 4-11 are anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 5,915,214 to Reece et al. (hereinafter “Reece”) or, in the alternative, whether claims 1, 2 and 4-11 are unpatentable under 35 U.S.C. § 103(a) over Reece.

Argument

Outline

- I. Rejection of Claims 1, 2 and 4-11 Under Either 35 U.S.C. § 102(b) or 35 U.S.C. § 103(a)
 - a. Claims 1, 2 and 4-11 Are Allowable Because Reece Fails to Teach or Suggest All of the Elements of Independent Claim 1

I. Rejection of Claims 1, 2 and 4-11 Under Either 35 U.S.C. § 102(b) or 35 U.S.C. § 103(a)

Claims 1, 2 and 4-11 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Reece, or, in the alternative, under U.S.C. § 103(a) as being unpatentable over Reece. (Page 3 of the final Office action.) The Applicant respectfully requests reversal of the rejections in light of the arguments presented below.

a. Claims 1, 2 and 4-11 Are Allowable Because Reece Fails to Teach or Suggest All of the Elements of Independent Claim 1

Independent method claim 1 is provided below, with emphasis supplied:

1. A method for providing communication services, the method comprising:
 - (a) *at a retail business, providing a wireless transceiver device to a customer of the retail business*, wherein the wireless transceiver device is configured to receive at least one of a plurality of different communication services and provide the at least one of the plurality of different communication services to the customer of the retail business;
 - (b) *receiving in at least one location of the retail business, the plurality of different communication services from a network system*;
 - (c) *in response to providing the wireless transceiver device to the customer of the retail business, receiving in the at least one location of the retail business a request from the wireless transceiver device for the at least one of the plurality of different communication services*; and
 - (d) *at the at least one location of the retail business, processing the request for the at least one of the plurality of different communication services*; and
 - (e) *in response to processing the request, providing the at least one of the plurality of different communication services from the at least one location of the retail business to the wireless transceiver device over a wireless network*.

Generally, Reece discloses a Central Processing Facility (CPF) 10 (see Fig. 1) that “serves as an information depot and switching facility so that incoming calls to the individual mobile devices on the system may be switched through to those devices, regardless of the particular wireless service providers being used by those devices.” (Column 5, lines 32-36.) Also, the user of the device may carry on outgoing calls through any of the service providers. (See Fig. 6; and column 13, lines 20-31.) To this

end, the CPF 10 transmits information regarding the various service providers by way of *one-way base station transmitters 12* to the communication devices 14. (See Fig. 1; column 5, line 43, to column 6, line 6; and column 6, lines 21-26.) In turn, each of the devices 14 selects a service provider based upon that information and engages in registration and two-way communications with the selected provider by way of the provider's base transceivers 16 and central control facility 18. (See column 6, lines 44-61.) In addition, the service provider's control facility 18 may communicate with the CPF 10 to obtain additional information on the communication device 14 engaging the service provider for access. (See column 6, line 66, to column 7, line 10.)

As a result, the system of Reece differs from the subject matter of claim 1 in several ways. For example, Reece does not teach or suggest *receiving in the at least one location of the retail business a request from a wireless transceiver device for at least one of a plurality of different communication services*. The advisory action indicates that Reece discloses this provision at column 3, lines 37-42. The Applicant respectfully disagrees. In that passage, Reece indicates that the device may "either automatically or in response to direct user input, select an optimal service provider based on the received information." However, this selection does *not* involve requesting the service *from the CPF*, as the device selects the provider and then attempts communication directly with the service provider *without the involvement of the CPF*, as described above. Further, the device cannot request a communication service from the CPF since Reece indicates that the information transferred from the CPF to the communication devices occurs through the *one-way base station transmitters 12* of Fig. 1, thus *not transferring information from the devices 14 to the CPF 10*. Reece also teaches away from using two-way communication between the CPF 10 and the devices 14 by stating that "[u]se of a one-way transmission system provides the advantage that an unlimited number of users may access the information simultaneously without encountering the capacity problems that plague two-way wireless communications." (Column 3, lines 41-44.)

Also, since Reece does not indicate that the CPF receives a request for such communication services, the CPF cannot *process such a request for the at least one of the communication services*, as provided for in claim 1. The advisory action indicates that Reece teaches this provision at column 4, lines 38-42. The Applicant respectfully

disagrees. That particular passage of Reece states that the requests to the CPF are requests *from a service provider for information about a particular device*. Thus, the request processed by the CPF is not for communication service, and does not come from the communication device. Therefore, Reece does not teach or suggest processing the request (from the transceiver device, as noted above) for one of the communication services.

Further, Reece does not teach or suggest *providing the one of the communication services from the retail business to the transceiver device over a wireless network in response to processing the request*, as set forth in claim 1. The advisory action indicates that Reece teaches this subject matter at column 4, lines 10-12 and 38-42, and at column 5, lines 30-35. The Applicant respectfully disagrees. While Reece indicates that the CPF may receive an incoming call that desires to establish two-way communication with one of the communication devices, and may switch the call to one of the wireless service providers, *this switching is performed in response to receiving the incoming call*, not in response to a request or any other action of one of the communication devices receiving the call.

The advisory action also indicates that the CPF inherently or obviously provides communication services to the devices due to the role of the CPF as a payment and billing agent between users and service providers. The Applicant respectfully disagrees, as being a payment and billing agent is not the same as *receiving communication services from a network system at a retail business, and then providing those services from the retail business to a wireless transceiver device over a wireless network*. A system may keep track of billing and payments by any number of methods without actually providing the communication services involved.

Further, Reece does not teach or suggest *providing at a retail business a wireless transceiver device to a customer of the retail business*, as provided for in claim 1. More specifically, the advisory action indicates that “it’s inherently included or would have been obvious that the device is provided by the CPF since *there is no contract between the user and the service providers*.” The Applicant respectfully disagrees. Reece explicitly indicates that the CPF 10 “includes data processing equipment, telephone switching equipment, and microwave communications equipment.” As a result, Reece

does not teach or suggest that the CPF 10 is a *retail business* at which a customer may obtain a wireless transceiver device. Further, Reece indicates that service may be provided to the user “without requiring individual contract agreements between every user and *every service provider*.” (Column 4, lines 9-11.) Thus, Reece does not indicate that the user of the communication device has *no contract* with *any service provider*, just that the user need not have a contract with *every service provider*. Thus, within the environment of Reece, providing a user with a wireless transceiver device at a retail business is neither inherent nor obvious in view of Reece.

Thus, in light of at least the foregoing reasons, the Applicant contends that claim 1 is allowable in view of Reece, and such indication is respectfully requested.

Further, claims 2 and 4-11 depend from independent claim 1, thus incorporating the provisions of that independent claim. Thus, the Applicant asserts that claims 2 and 4-11 are allowable for at least the reasons provided above in support of claim 1, and such indication is respectfully requested.

Conclusion

In light of the foregoing remarks, the Applicant submits that the final rejections of claims 1-2 and 4-11 are erroneous, and respectfully requests their reversal.

The Office is hereby authorized to charge Deposit Account No. 21-0765 the requisite fee for this appeal brief (37 C.F.R. §§ 41.37(a)(2) and 41.20(b)(2)). The attendant notice of appeal and fee (37 C.F.R. §§ 41.61(a)(1) and 41.20(b)(1)) were filed previously in conjunction with a pre-appeal brief request for review filed April 27, 2007. The Applicant believes that no additional fees are due with respect to this filing. However, should the Office determine that additional fees are necessary, the Office is hereby authorized to charge Deposit Account No. 21-0765.

Respectfully submitted,

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Claims Appendix

The following is a list of claims involved in this appeal:

1. (Previously Presented) A method for providing communication services, the method comprising:

at a retail business, providing a wireless transceiver device to a customer of the retail business, wherein the wireless transceiver device is configured to receive at least one of a plurality of different communication services and provide the at least one of the plurality of different communication services to the customer of the retail business;

receiving in at least one location of the retail business, the plurality of different communication services from a network system;

in response to providing the wireless transceiver device to the customer of the retail business, receiving in the at least one location of the retail business a request from the wireless transceiver device for the at least one of the plurality of different communication services; and

at the at least one location of the retail business, processing the request for the at least one of the plurality of different communication services; and

in response to processing the request, providing the at least one of the plurality of different communication services from the at least one location of the retail business to the wireless transceiver device over a wireless network.

2. (Original) The method of claim 1 wherein providing the at least one of the plurality of different communication services from the at least one location of the retail business comprises:

providing the at least one of the plurality of different communication services from the at least one location of the retail business to the wireless network; and

providing the at least one of the plurality of different communication services from the wireless network to the wireless transceiver device.

3. (Canceled)

4. (Previously Presented) The method of claim 1 wherein processing the request for the at least one of the plurality of different communication services comprises:

providing the request for the at least one of the plurality of different communication services to the network system.

5. (Original) The method of claim 1 wherein the step of receiving the plurality of different communication services comprises:

contracting for the plurality of different communication services from the network system by the retail business.

6. (Original) The method of claim 1 wherein providing the wireless transceiver device to the customer of the retail business comprises:

renting the wireless transceiver device to the customer of the retail business for a predetermined period of time.

7. (Original) The method of claim 1 wherein providing the at least one of the plurality of different communication services from the retail business to the wireless network comprises:

contracting for wireless network services from the wireless network by the retail business, wherein the wireless network service is representative of providing the at least one of the plurality of different communication services from the at least one location of the retail business to the wireless transceiver device.

8. (Original) The method of claim 1 wherein the plurality of different communication services comprise broadband communication services.

9. (Original) The method of claim 8 wherein the broadband communication services comprise video on demand communication services.

10. (Original) The method of claim 8 wherein the broadband communication services comprise data exchange communication services.

11. (Previously Presented) The method of claim 8 wherein the broadband communication services comprise voice communication service.

Evidence Appendix

None

Related Proceedings Appendix

None